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SEP 28 2006

REMARKS

These amendments and remarks attend to all outstanding issues in the Office Action mailed April 28, 2006. Claims 1-16 are pending in the application.

Typographical errors in the specification have been corrected. For example, at [0016], the spelling of "prepared" has been corrected; at [0017], the tense of "provide" has been corrected; at [0029], an extraneous notation (corresponding to a wheat protein isolate product label) has been removed; at [0036], the phrase "using the present invention" has been inserted for clarification; at [0038], a missing phrase has been added; at [0039], an extraneous gap has been deleted; at [0042], a sentence fragment has been merged with the previous sentence and the spellings of "depth" and "where" have been corrected; at [0044], redundant wording has been removed; at [0047], a semantic change has been made, the model of the Texture Analyzer has been amended and the formatting of the table has been corrected; at [0049], the tense of "tasted" has been corrected to conform with the remainder of the paragraph, and in accord with the rule for working examples found at MPEP 608.01(p)(II); at [0052], reference to Example 2 has been removed because the specification does not contain a second example; and, at [0053], several trademark symbols have been inserted, the phrase "inversely proportional" has been corrected and punctuation has been moved inside of a set of parentheses. No new matter has been added to the specification by these amendments.

Independent claims 1, 5, 8 and 13 have been amended to recite 'a wheat protein isolate that is present in the range of about 0.5 wt % to about 10.0 wt % by flour weight.' Claims 2, 6, 9 and 14 have been amended to recite 'a wheat protein isolate that is present in the range of about 1.5 wt % to about 3.0 wt % by flour weight.' Support for these amendments may be found, for example, at p. 5, [0031]. Claim 10 has been amended to add a period. No new matter has been added to the claims by these amendments.

Claim Rejections - 35 U.S.C. § 112, Second Paragraph

Claim 16 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. Specifically, the Examiner states that it is unclear how claim 16 further limits the subject matter of claim 13, where claim 13 recites cooking a food product by contacting it with oil or fat and claim 16 recites the food product is baked.

Applicants contend that there is no discrepancy in stating that a food product, which is in contact with oil or fat, is baked (p. 5, [0032]). For example, it is common to grease a sheet or pan with shortening, butter, oil or the like before contacting a food product with the sheet/pan (and oil or fat thereon) and then baking. In light of this explanation, Applicants submit that claim 16 is not indefinite, and respectfully request withdrawal of the 35 U.S.C. § 112 rejection.

Claim Rejections – 35 U.S.C. § 102(e)

Claims 1-16 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2003/0091698 to Marsland (hereinafter “Marsland”).

To anticipate a claim, a reference must teach every element of the claim and “the identical invention must be shown in as complete detail as contained in the... claim.” *MPEP 2131* citing *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989). Marsland does not teach every element of Applicants’ amended claims.

Marsland discloses a high-protein, reduced-carbohydrate food product that addresses the unwanted health consequences of consuming large quantities of carbohydrate-based foods (p. 1, [0003]). The food product contains a modified wheat protein isolate that partially or completely replaces carbohydrates such as ‘flour, sugar, starch and derivatives of such’ (p. 1, [0003] and Examples) so that the final products contain ‘an optional low to moderate percentage level of select carbohydrates’ (p. 1, [0007]). In contrast, the present application relates to compositions and methods for reducing the absorption of fat in prepared food products. In one aspect, wheat protein isolates form film coatings that serve as moisture and fat barriers (p. 5, [0030]). This is a completely different approach to altering the nutritional value of a food product than the approach taken by Marsland, where an ingredient substitution is made for an

unwanted component. Marsland does not teach or suggest the utility of a wheat protein isolate for reducing fat absorption.

Further, Marsland does not disclose a wheat protein isolate within Applicants' claimed range of 0.5 wt % to 10 wt % *by flour weight*. Instead, Marsland states that the modified wheat protein isolate constitutes from about 5% to about 50% *by weight of the final product* (p. 2, [0012]; p. 3, [0015]; claim 8). A review of Marsland's Examples provides the following estimations of percent wheat protein isolate (WPI) by flour (or carbohydrate) weight:

Example 1:	no carbohydrate source/residual amounts only
Example 2:	533% WPI based on pregelatinized starch
Examples 3-5:	no carbohydrate source/residual amounts only
Example 6:	80% WPI based on potato granule
Example 7:	80% based on corn masa
Example 8:	80% based on potato granule
Examples 9-13:	no carbohydrate source/residual amounts only

This analysis shows that Marsland's percentage of WPI based on flour weight is high because Marsland discloses a reduced carbohydrate food product having relatively little (if any) flour. Marsland does not teach or suggest 'a wheat protein isolate that is present in the range of about 0.5 wt % to about 10.0 wt % by flour weight'. Marsland therefore fails to disclose every element of Applicants' amended claims, and cannot support a case of anticipation. Withdrawal of the 35 U.S.C. § 102(e) rejection and reconsideration of claims 1-16 are respectfully requested.

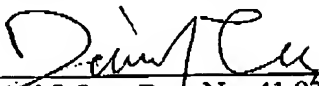
In view of the above Remarks, Applicants have addressed all issues raised in the Office Action dated April 28, 2006, and respectfully solicit a Notice of Allowance. Should any issues remain, the Examiner is encouraged to telephone the undersigned attorney.

Authorization to charge fees associated with a two-month extension of time is submitted herewith. If any additional fee is deemed necessary in connection with this Response, the Commissioner is authorized to charge Deposit Account No. 12-0600.

Respectfully submitted,

LATHROP & GAGE LC

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